

Remarks

Claims 9-22 are pending in the application, and stand rejected. Favorable reconsideration is respectfully requested.

Claims 9-21 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,377,783. This rejection is respectfully traversed. The Applicant notes that the scope of claims 9-21 may change during prosecution, and that no indication of allowable subject matter has yet been offered by the Examiner.

Withdrawal of the objection to claim 13 is respectfully requested in view of the amendment thereto set forth above.

The Applicant therefore submits that a terminal disclaimer will be filed to overcome the obviousness-type double patenting rejection(s), if warranted, when the Examiner indicates that, but for any obviousness-type double patenting rejections, the application is in condition for allowance.

Claims 9-22 were rejected under 35 USC 102(e) as being anticipated by Newman et al. (US 5,907,816) (hereafter, "Newman"). The Applicant respectfully submits that the asserted rejection cannot be sustained because Newman does not disclose the claimed elements.

For example, Newman is silent at least with regard to "selecting a subset of the beams for processing by a plurality of receivers, wherein the subset includes the strongest beam" as recited in independent claim 9. Further, Newman does not disclose at least "applying exclusion logic to select a strongest beam and auxiliary beams" as recited in independent claim 14. Moreover, Newman does not disclose at least "exclusion logic coupled to the beam former to select a subset of outputs of the beam former, wherein the subset includes the strongest beam" as recited in independent claim 17. Independent claims 9 and 14 further recite that the selected subset is from beams formed from captured (received) signals.

The Examiner points to column 5, lines 59-67 and column 6, lines 57-58 of Newman as corresponding to the above-noted elements required by each of the independent claims. The Applicant respectfully disagrees with this characterization of the cited portion of Newman. In the cited portion, Newman is describing selection of

one of radiated beams of a four-beam receive antenna that is best suited for a "particular user signal of interest at that time" (see Newman, col. 5, lines 59-63). Thus, the selection is with respect to a constant set of four beams radiated by the receive antenna, not with respect to received signals as required by claims 9 and 14. Moreover, in view of the foregoing, Newman cannot meet the above-noted recitation of claim 17, since in Newman, a subset of outputs of a beam former are not selected, but only one of radiated beams of a multi-beam receive antenna.

Accordingly, independent claims 9, 14 and 17 are allowable over Newman. Moreover, since the dependent claims include the recitations of one of the independent claims, the dependent claims are likewise allowable over Newman for at least the reasons discussed in connection with the independent claims. Withdrawal of the rejection of claims 9-22 as anticipated by Newman is therefore respectfully requested.

Claims 9-11, 17 and 21 were further rejected under 35 USC 102(e) as being anticipated by Keskitalo et al. (US 6,073,032) (hereafter, "Keskitalo").

The Applicant respectfully traverses. Keskitalo also lacks claim elements recited in the independent claims. The Examiner refers to "best signal components from inputs of the RX switch" in asserting that Keskitalo discloses "selecting a subset of beams" according to the claimed invention (Office Action, the paragraph bridging pages 4 and 5). For purposes of discussion, it is assumed that the Examiner is referring to Keskitalo at col. 15, lines 51-52 and the neighboring text, which includes the description "the searcher unit 802 searches for the best signal components from the inputs of the RX switch ..." This portion of Keskitalo relates generally to FIGs. 7 and 8. Referring to FIGs. 7 and 8, it is noted that searcher unit 802 follows, among other elements, A/D converters 718 - 722. Thus, whatever it is that searcher unit 802 is doing, it is not selecting a subset of beams "for processing by a plurality of receivers" as required by independent claim 9, since the A/D converters 718 to 722 follow receive elements 712 - 716. Moreover, in view of the foregoing, Keskitalo is clearly silent as to "exclusion logic coupled to the beam former to select a subset of outputs of the beam former, wherein the subset includes the strongest beam" as required by independent claim 17.

Accordingly, independent claims 9 and 17 are allowable over Keskitalo. Further, dependent claims 10, 11 and 21, since they include the recitations of one of

independent claims 9 and 17, are likewise allowable over Keskitalo for at least the reasons discussed in connection with independent claims 9 and 17. Withdrawal of the rejection of claims 9-11, 17 and 21 as anticipated by Keskitalo is therefore respectfully requested.

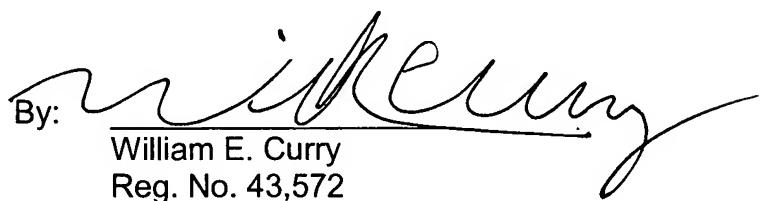
In light of the above discussion, Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: May 1, 2004

By:


William E. Curry
Reg. No. 43,572

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005
Tel: (202) 220-4200
Fax:(202) 220-4201